

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

PASTOR ISABEL VELA,

Plaintiff,

v.

PORTERVILLE POLICE DEPARTMENT,

Defendant.

Case No. 1:24-cv-00564-KES-SAB

ORDER DIRECTING CLERK OF COURT
TO CLOSE CASE AND ADJUST DOCKET
TO REFLECT VOLUNTARY DISMISSAL
AND TERMINATING MAY 23, 2024
FINDINGS AND RECOMMENDATIONS

(ECF No. 6)

This action was filed on May 13, 2024. (ECF No. 1.) Currently pending are findings and recommendations, filed May 23, 2024, recommending dismissing this action without leave to amend. (ECF No. 5.) On August 6, 2024, Plaintiff filed a notice of voluntary dismissal pursuant to Rule 41(a)(1) of the Federal Rules of Civil Procedure.

“[U]nder Rule 41(a)(1)(A)(i), ‘a plaintiff has an absolute right to voluntarily dismiss his action prior to service by the defendant of an answer or a motion for summary judgment.’ ” Commercial Space Mgmt. Co., Inc. v. Boeing Co., Inc., 193 F.3d 1074, 1077 (9th Cir. 1999) (quoting Wilson v. City of San Jose, 111 F.3d 688, 692 (9th Cir. 1997)). The Ninth Circuit has held that Rule 41(a) allows a plaintiff to dismiss without a court order any defendant who has yet to serve an answer or motion for summary judgment. Pedrina v. Chun, 987 F.2d 608, 609 (9th Cir. 1993). “[A] dismissal under Rule 41(a)(1) is effective on filing, no court order is required, the parties are left as though no action had been brought, the defendant can’t complain, and the

1 district court lacks jurisdiction to do anything about it.” Commercial Space Mgmt. Co., Inc., 193
2 F.3d at 1078. In this action, no defendant has filed an answer or other responsive pleading.

3 Accordingly, the Clerk of the Court is HEREBY ORDERED to CLOSE the file in this
4 case and adjust the docket to reflect voluntary dismissal of this action pursuant to Rule 41(a).

5 IT IS FURTHER ORDERED that the May 23, 2024, findings and recommendations shall
6 be administratively terminated.

7
8 IT IS SO ORDERED.

9 Dated: August 7, 2024


UNITED STATES MAGISTRATE JUDGE